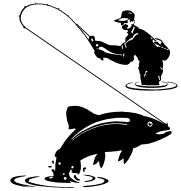




## Document B



# Beaverhead and Big Hole River Recreation Rules: Revised Effective June 16, 2005

The following rules apply to recreational use on the Beaverhead and Big Hole rivers. This document (Document B) shows changes made to the rules as of June 16, 2005. Consult Document A if you want to view a "clean" copy of the rules. Changes to the rules are indicated as follows:

1. language *eliminated* from the previous version of the rules is interlined;
2. language *added* to the previous version of the rules is underlined; and
3. New rules are labeled as such.

12.11.202 RIVER DEFINITIONS The following definitions apply to this subchapter:

(1) "Float fishing" means any fishing from a boat and wade fishing when fishing access is gained by boat.

(2) "Float outfitting" means the operation of any boat for the commercial purpose of float fishing by a fishing guide or fishing outfitter.

(3) "Guide" means a person as defined in ~~87-37-101~~ 37-47-101, MCA.

(4) "Official access site" means those river access sites that are publicly owned, managed, and maintained as an access point. The following are official access sites on the Big Hole River:

- (a) High Road fishing access site;
- (b) Pennington fishing access site;
- (c) Notch Bottom fishing access site;
- (d) Glen fishing access site;
- (e) Brownes Bridge fishing access site;
- (f) Salmon Fly at Melrose fishing access site;
- (g) Maiden Rock FWP fishing access site;
- (h) Maiden Rock BLM fishing access site;
- (i) Divide fishing access site;
- (j) Power House fishing access site;
- (k) Dewey fishing access site;
- (l) Jerry Creek fishing access site;
- (m) Mallons fishing access site;
- (n) Dickie Bridge fishing access site;
- (o) ~~Eastback~~ East Bank BLM fishing access site;
- (p) Sportsman Park fishing access site;
- (q) Fishtrap fishing access site; and
- (r) Mudd Creek Bridge fishing access site.

(5) "Outfitter" means a person as defined in 37-47-101, MCA.

~~(6) The commission shall repeal or amend this rule on or before June 1, 2005.~~

(6) "One-boat outfitter" means an outfitter who operates no more than one boat and is the sole guide. An outfitter may operate as a one-boat outfitter on the Beaverhead River while operating as a multi-boat outfitter on the Big Hole River and other rivers. An outfitter may operate as a one-

boat outfitter on the Big Hole River while operating as a multi-boat outfitter on the Beaverhead River and other rivers.

(7) "Temporary client days" means client days that are available to one-boat outfitters.

AUTH: 87-1-301, 87-1-303, MCA

IMP: 87-1-303, MCA

12.11.205 BEAVERHEAD RIVER RECREATIONAL USE RESTRICTIONS

(1) Starting on the third Saturday in May through Labor Day, recreational use of the Beaverhead River from Clark Canyon Dam to its mouth shall be allowed and restricted in designated river reaches as follows:

(a) in the river reach from Clark Canyon Dam to Henneberry fishing access site, each outfitter is limited to launching or use within the reach of a maximum of three boats in any day;

(b) in the river reach from Henneberry fishing access site to Barretts Diversion, each outfitter is limited to launching or use within the reach of a maximum of three boats in any day;

(c) in the river reach from Barretts Diversion to Highway 91 South (Tash) Bridge, each outfitter is limited to launching or use within the reach of a maximum of one boat in any day;

(d) the river reach from Highway 91 South (Tash) Bridge to Selway Bridge is closed to any float outfitting; and

(e) in the river reach from Selway Bridge to Jessen Park in Twin Bridges, each outfitter is limited to launching or use within the reach of a maximum of one boat in any day.

(2) Float fishing by nonresidents and float outfitting is limited as follows on the Beaverhead River from the third Saturday in May through Labor Day:

(a) each Saturday float fishing by nonresidents and float outfitting is not permitted on the river reach from High Bridge fishing access site to Henneberry fishing access site; and

(b) each Sunday float fishing by nonresidents and float outfitting is not permitted on the river reach from Henneberry fishing access site to Pipe Organ fishing access site.

~~(3) The commission shall repeal or amend this rule on or before June 1, 2005.~~

AUTH: 87-1-301, 87-1-303, MCA

IMP: 87-1-303, MCA

## **NEW RULE I**

**ARM 12.11.206 USE OF TEMPORARY CLIENT DAYS ON THE BEAVERHEAD RIVER** (1) One-boat outfitters may apply on an annual basis for up to 60 temporary client days on the Beaverhead River.

(2) The department shall allocate available temporary client days to one-boat outfitters based on the applicant's experience outfitting or guiding on the Beaverhead River and the number of years the applicant has been a licensed outfitter or guide in Montana.

(3) When allocating temporary client days, the department shall give preference to applicants who were allocated temporary client days on the Beaverhead River the previous year.

(4) One-boat outfitters may use their assigned temporary client days the entire year with no more than two-thirds of the use occurring during the restricted period from July 1 through August 31.

(5) After a one-boat outfitter has used temporary client days for three consecutive years, the number of temporary client days that the one-boat outfitter may apply for in the following year must not exceed the highest number of temporary client days used by that one-boat outfitter in one of the previous three years.

(6) After a one-boat outfitter has used temporary client days for five consecutive years, the department may remove these temporary client days from the pool and allocate them to that one-boat outfitter for his or her use. These client days are then no longer considered temporary client days.

(7) In addition to temporary client days, one-boat outfitters may use non-pool client days that are transferred to them as part of the sale or transfer of an outfitter's business in its entirety. They must remain a one-boat outfitter, however, in order to apply for or retain the use of temporary client days. The transfer of those outfitting businesses that these rules regulate on the Beaverhead River are governed by 37-47-310, MCA.

AUTH: 87-1-301, 87-1-303, MCA

IMP: 87-1-303, MCA

## **NEW RULE II**

**ARM 12.11.207 REVIEW OF RIVER RECREATION RULES FOR BEAVERHEAD RIVER** (1) The commission shall review the rules governing recreational use on the Beaverhead River within five years after the adoption of these rules.

(2) The statewide rules governing river recreation management shall apply to future recreation management actions on the Beaverhead River.

AUTH: 87-1-301, 87-1-303 MCA

IMP: 87-1-303, MCA

### **12.11.210 BIG HOLE RIVER RECREATIONAL USE RESTRICTIONS**

(1) Starting on the third Saturday in May through Labor Day, recreational use of the Big Hole River from its headwaters to ~~High Road~~ Notch Bottom fishing access site shall be allowed and restricted by defining ~~seven~~ eight river zones with one zone closed to float outfitting

each day and with the zone that is restricted on Saturday and the zone that is restricted on Sunday also closed to nonresident float fishing. The ~~seven~~ eight river zones are defined by river reach and restricted each day of the week as follows:

(a) all seven days of the week, the river reach from the headwaters to Mudd Creek Bridge fishing access site is closed to any float outfitting;

~~(a)~~(b) each Sunday, the river reach from Divide fishing access site to Salmon Fly fishing access site is closed to any float fishing by nonresidents and to any float outfitting;

~~(b)~~(c) each Monday, the river reach from Salmon Fly fishing access site to Glen fishing access site is closed to any float outfitting;

~~(c)~~(d) each Tuesday, the river reach from ~~the headwaters~~ Mudd Creek Bridge fishing access site to Fishtrap fishing access site is closed to any float outfitting;

~~(d)~~(e) each Wednesday, the river reach from ~~Notch Bottom~~ East Bank BLM fishing access site to ~~High Road~~ Jerry Creek fishing access site is closed to any float outfitting;

~~(e)~~(f) each Thursday, the river reach from Fishtrap fishing access site to ~~Jerry Creek~~ East Bank BLM fishing access site is closed to any float outfitting;

~~(f)~~(g) each Friday, the river reach from Glen fishing access site to Notch Bottom fishing access site is closed to any float outfitting; and

~~(g)~~(h) each Saturday, the river reach from Jerry Creek fishing access site to Divide fishing access site is closed to any float fishing by nonresidents and to any float outfitting.

(2) All float users, including each float outfitter, are limited to a total of two launches at or near each official access site per day on the Big Hole River. If a boat is launched at an unofficial site the launch will be counted as occurring at the nearest official site in determining the two-boat limit at or near each official access site.

~~(3) The commission shall repeal or amend this rule on or before May 1, 2005.~~

AUTH: 87-1-301, 87-1-303 MCA

IMP: 87-1-303, MCA

### **NEW RULE III**

**ARM 12.11.211 USE OF TEMPORARY CLIENT DAYS ON THE BIG HOLE RIVER** (1) One-boat outfitters may apply on an annual basis for up to 60 temporary client days on the Big Hole River.

(2) The department shall allocate available temporary client days to one-boat outfitters based on the applicant's experience outfitting or guiding on the Big Hole River and the number of years the applicant has been a licensed outfitter or guide in Montana.

(3) When allocating temporary client days, the department shall give preference to applicants who were allocated temporary client days on the Big Hole River the previous year.

(4) One-boat outfitters may use their assigned temporary client days the entire year with no more than two-thirds of the use occurring during the restricted period from June 1 through July 31.

(5) After a one-boat outfitter has used temporary client days for three consecutive years, the number of temporary client days that the one-boat outfitter may apply for in the following year must not exceed the highest number of temporary client days used by that one-boat outfitter in one of the previous three years.

(6) After a one-boat outfitter has used temporary client days for five consecutive years, the department may remove these temporary client days from the pool and allocate them to the one-boat outfitter for his or her use. The client days are no longer considered temporary client days.

(7) In addition to temporary client days, one-boat outfitters may use non-pool client days that are transferred to them as a part of the sale or transfer of an outfitter's business in its entirety. They must remain a one-boat outfitter, however, in order to apply for or retain the use of temporary client days. The transfer of those outfitting businesses that these rules regulate on the Big Hole River are governed by 37-47-310, MCA.

AUTH: 87-1-301, 87-1-303, MCA

IMP: 87-1-303, MCA

#### **NEW RULE IV**

**ARM 12.11.212 REVIEW OF RIVER RECREATION RULES FOR THE BIG HOLE RIVER** (1) The commission shall review the rules governing recreational use on the Big Hole River within five years after the adoption of these rules.

(2) The statewide rules governing river recreation management shall apply to future recreation management actions on the Big Hole River.

AUTH: 87-1-301, 87-1-303 MCA

IMP: 87-1-303, MCA

**12.11.215 NEW OUTFITTER MORATORIUM AND OUTFITTER RESTRICTIONS ON THE BEAVERHEAD RIVER** (1) An outfitter with documented use of the Beaverhead River prior to December 31, 1998, may continue to operate on the Beaverhead River, except as provided in ~~(3)~~(2).

(2) An outfitter authorized to outfit on the Beaverhead River forfeits all of his/her client days and is no longer authorized to outfit on the Beaverhead River if one or more of the following occur:

(a) an outfitter does not report any use for any two consecutive years, effective June 17, 2005;

(b) an outfitter did not report any use for the five years prior to December 31, 2004; or

(c) the license of an outfitter has lapsed.

(3) The department shall establish a pool of temporary client days that consists of the forfeited client days. The total number of temporary client days, including client days that have been allocated and client days available in the pool, shall not exceed 2,000.

~~(3)~~(4) An outfitter who has not documented use on the Beaverhead River prior to December 31, 1998, may not operate on the Beaverhead River unless the outfitter was licensed by the board of outfitters between

December 1, 1998, and July 1, 1999, and the outfitter's operating plan included the Beaverhead River, except as allowed in ARM 12.11.206.

~~(4)~~(5) Each outfitter from July 1 through August 31, inclusive, on the Beaverhead River shall not exceed the number of client days served by the outfitter on the Beaverhead River during those same months for the outfitter's highest client use year from among the years 1995, 1996, 1997, 1998, 1999, or 2000. The records submitted by the outfitter to and maintained by the board of outfitters will determine the number of client days in each year.

(6) Client days may only be used by an outfitter authorized to conduct use on the Beaverhead River. An authorized outfitter may hire or contract a guide or outfitter serving as a guide to provide guiding services to clients provided the guide or outfitter serving as a guide only serves in the capacity of a guide and does not recruit clients, make agreements with clients concerning monetary consideration or services provided, or collect fees from clients.

(7) An outfitter may not sell, lease, rent, or otherwise receive compensation from an outfitter or guide for the opportunity to use client days.

(8) An outfitter found to be selling, leasing, renting, or transferring client days in any way other than when transferring a business in its entirety shall permanently forfeit these client days. The forfeited client days will be allocated to the temporary client day pool.

(9) An outfitter serving as a guide for an outfitter authorized to conduct use on the Beaverhead River must be the person providing the guiding services and may not hire a guide to provide the services on their behalf.

~~(5)~~(10) In the event of the death of an outfitter who has an opportunity to outfit on the Beaverhead River as outlined in this sub-chapter, that opportunity may be assumed by a member of the immediate family of the deceased outfitter. This provision does not supersede the outfitter licensing requirements and authority of the board of outfitters.

~~(6)~~(11) All outfitters given the opportunity to operate on the Beaverhead River, as outlined in this sub-chapter, will be issued boat tags that will identify them as authorized by the commission to operate on this river. These boat tags must be displayed on all authorized outfitter boats when operating on the Beaverhead River.

~~(7) The commission shall repeal or amend this rule on or before June 1, 2005.~~

AUTH: 87-1-301, 87-1-303, MCA

IMP: 87-1-303, MCA

12.11.220 NEW OUTFITTER MORATORIUM AND OUTFITTER RESTRICTIONS ON THE BIG HOLE RIVER (1) An outfitter with documented use of the Big Hole River prior to December 31, 1998, may continue to operate on the Big Hole River, except as provided in ~~(3)~~(2).

(2) An outfitter authorized to outfit on the Big Hole River forfeits all of his/her client days and is no longer authorized to outfit on the Big Hole River if one or more of the following occur:

(a) an outfitter does not report any use for any two consecutive years, effective June 17, 2005;

(b) an outfitter did not report any use for the five years prior to December 31, 2004; or

(c) the license of an outfitter has lapsed.

(3) The department shall establish a pool of temporary client days that consists of the forfeited client days. The total number of temporary client days, including client days that have been allocated and client days available in the pool, shall not exceed 2,000.

~~(3)~~(4) An outfitter who has not documented use on the Big Hole River prior to December 31, 1998, may not operate on the Big Hole River unless the outfitter was licensed by the board of outfitters between December 1, 1998, and July 1, 1999, and the outfitter's operating plan included the Big Hole River, except as allowed in ARM 12.11.211.

~~(4)~~(5) Each outfitter from July 1 through August 31, inclusive, on the Big Hole River shall not exceed the number of client days served by the outfitter on the Big Hole River during those same months for the outfitter's highest client use year from among the years 1995, 1996, 1997, 1998, 1999, or 2000. The records submitted by the outfitter to and maintained by the board of outfitters will determine the number of client days in each year.

(6) Client days may only be used by an outfitter authorized to conduct use on the Big Hole River. An authorized outfitter may hire or contract a guide or outfitter serving as a guide to provide guiding services to clients provided the guide or outfitter serving as a guide only serves in the capacity of a guide and does not recruit clients, make agreements with clients concerning monetary consideration or services provided, or collect fees from clients.

(7) An outfitter may not sell, lease, rent, or otherwise receive compensation from an outfitter or guide for the opportunity to use client days.

(8) An outfitter found to be selling, leasing, renting, or transferring client days in any way other than when transferring a business in its entirety shall permanently forfeit these client days. The forfeited client days will be allocated to the temporary client day pool.

(9) An outfitter serving as a guide for an outfitter authorized to conduct use on the Big Hole River must be the person providing the guiding services and may not hire a guide to provide the services on their behalf.

~~(5)~~(10) In the event of the death of an outfitter who has an opportunity to outfit on the Big Hole River as outlined in this sub-chapter, that opportunity may be assumed by a member of the immediate family of the deceased outfitter. This provision does not supersede the outfitter licensing requirements and authority of the board of outfitters.

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~~(7) The commission shall repeal or amend this rule on or before June 1, 2005.~~

AUTH: 87-1-301, 87-1-303, MCA  
IMP: 87-1-303, MCA